

## CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE  
725 FRONT STREET, SUITE 300  
SANTA CRUZ, CA 95060  
PHONE: (831) 427-4863  
FAX: (831) 427-4877



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February 26, 2004 [Addendum added 3/18.]

TO: COMMISSIONERS AND INTERESTED PERSONS

FROM: Charles Lester, Deputy Director  
Rick Hyman, Deputy Chief Planner, Central Coast District  
Elizabeth Fuchs, AICP, Manager, Statewide Planning  
Kelly Cuffe, Coastal Analyst

SUBJECT: **RESPONSE TO COMMENTS AND ADDENDUM TO THE PERIODIC  
REVIEW OF THE MONTEREY COUNTY LOCAL COASTAL  
PROGRAM**

On November 26, 2003, Coastal commission staff released a staff report summarizing basic conclusions of its periodic review of Monterey County's local coastal program along with a series of preliminary recommendations. In late December, the complete draft of findings, recommendations and supporting material ("Draft Findings of the Monterey County LCP Periodic Review (dated 12/22/03), consisting of ten chapters and five appendices, along with figures and tables) was made available to the public for review and comment, placed on the Commission's website and distributed to the Commissioners on CD-Rom.

Since release of the draft findings and recommendations, staff has received some comments. However, Monterey County staff and decision-makers have not had the opportunity to fully review and comment on the documents. Faced with significant staff reductions and budget shortfalls, County staff has had to focus limited resources on other regulatory and planning matters.

In addition to distributing the draft report, Commission staff has committed to participating in some public forum on the draft periodic review report and recommendations. We have requested that the County staff set up a public meeting or meetings, and they have agreed to do so, however, no dates have been set as of today. Commission staff made a presentation to the Board of Supervisors on February 10, 2004 at which time the commitment to have local public outreach was reaffirmed. The Commission has continued to conduct outreach. Commission staff met with other public agencies (e.g., Caltrans, State Parks) to discuss the periodic review findings and recommendations. Additional comments from public agencies may be forthcoming. Results of any public meeting or additional comments will be reported to the Coastal Commission in future status briefings.

The priority of the County staff is on completing the 2004 *Monterey County 21<sup>st</sup> Century General Plan Update* which includes a comprehensive update of the County's local coastal program. As noted in our earlier staff report, the County has already incorporated some of the

periodic review recommendations in its draft *Update*. In addition to a series of meetings concerning the General Plan in early 2002 and subsequent phone conversations, Commission staff provided the County's General Plan team with an initial set of recommendations for updating the LCP based on the on-going Periodic Review. These extensive comments, included in Appendix A of the December 2003 *Draft Findings of the Monterey County Local Coastal Program Periodic Review*, were transmitted in January 2003 for consideration by the County in developing its General Plan. One of the challenges presented by the County's General Plan Update is to streamline and remove redundancies from the various certified documents of the LCP, while maintaining the specific detail in the LCP necessary to assure consistency with the California Coastal Act. Many of the Appendix A recommendations were focused on this requirement.

It is important to note that each Periodic Review is unique and in this case the release of the County's draft General Plan/LCP Update presents an opportunity to address issues raised by the draft review in a manner that as much as possible minimizes impact on the Commission's and the County's limited resources. Staff is attempting to integrate the process as much as possible with the local government processes while still addressing the mandate under Coastal Act section 30519.5. The Commission may in the future still adopt and transmit final findings and recommendations to the County thereby initiating the one year time period under the Coastal Act that the County has to respond to the Commission's transmitted recommendations. However, to the extent that the County's General Plan Update/LCP Amendment can effectively address the concerns identified in the Periodic Review, such future action may not be needed.

All comment letters are presented in **Attachment 1** to this report. The Staff Report of 11/26/03 with some of the Draft Recommendations is included in **Attachment 2** to this report. This current report presents those comments on specific text or recommendations that required a staff response. In some cases, staff is recommending a change to our previous recommendations in order to address the comments. These changes are shown in the addendum below. At this time staff is not prepared to recommend any accompanying changes to draft findings. Draft findings and appendices with the remainder of recommendations were previously distributed to the Commission and the public and will also be available at the hearing.

### **STAFF RECOMMENDATION:**

Because of the unique timing and circumstances related to the release of the County's Draft *General Plan Update*, Commission staff is not asking the Commission to vote on final findings and recommendations for transmittal pursuant to Coastal Act section 30519.5 on the Monterey Periodic Review in March. Staff recommends that the Commission:

- Receive, acknowledge and conduct a public hearing on the Periodic Review report; and
- Receive and consider public comments and the following responses and revisions (see Addendum below);

In the meantime Commission staff will continue to use the periodic review report in working with Monterey County to respond to the *21<sup>st</sup> Century General Plan Update* and will return to the

Commission in the future with a progress report on the periodic review and *General Plan Update*. At some future time, the staff may recommend that the Commission adopt final findings and transmit to the County Board of Supervisors any recommendations that remain unresolved from this process.

#### **ADDENDUM: REVISIONS TO RECOMMENDATIONS IN PREVIOUSLY RELEASED DOCUMENTS:**

Based on the responses to comments, the following recommendations found in the Staff Report on the Periodic Review of the Monterey County Local Coastal Program (dated 11/26/03 and included herein as Attachment 2) and the Draft Findings of the Monterey County LCP Periodic Review (with appendices dated 12/22/03) are revised (using ~~cross-outs~~ for deletions and underlining for additions) as follows:

1. Pages 52-55 of Staff Report of November 26, 2003

**Recommendation SH-28.4 Protect Maritime Chaparral Habitat as ESHA and Mitigation for Unavoidable Impacts:....**

**B.2.a.(2):** Prohibit other new development (grading, landscaping, major vegetation removal, accessory and second units, etc.) outside existing disturbance envelope, unless necessary for fire safety, pursuant to Recommendation ~~CH 9.3~~ CH-9.2....

**B.2.b:** Site and design development to maximize protection of ESHA. Prohibit new development within at least 100 feet of ESHA.

2. Page 64 of Appendix A

**Issue SH-13: Other ESHA Setbacks:** ...~~Retain IP Section 20.144.040(2) & (3) with regard to ESHA buffer.~~ Revise IP Section 20.144.040(2) & (3) to add: "...within at least 100' of environmentally sensitive habitats..."

3. Page 2 of Table PA-10e in Appendix B:

**Recommendation for Access point #2 in Big Sur: Doud Property:** ~~Acquire remaining portions of Doud Ranch on east side of Highway 1 to protect views and provide parking.~~ Work with the landowner to protect views and provide parking, if consistent with all other LCP policies, through public acquisition and/or alternative means.

4. Page 6 of Appendix D (Recommendations directed to other agencies)

**SH-29.9 Continue Monterey Pine forest research:** Governmental and non-profit agencies, universities, and others that have an interest in habitat protection (along with Monterey County) should continue to support research into ways to preserve and enhance the pine forest including addressing pine pitch canker and genetic diversity.

## **RESPONSE TO COMMENTS:**

### **I. COMMENTS FROM MONTEREY COUNTY BOARD OF SUPERVISORS**

**Comment: LU-9.2 Do not allow private water supplies in Cal-Am service area.** This constitutes an unconstitutional and illegal taking of water rights. The County of Monterey may arguably be left to pay for the groundwater rights for every legal lot of record in the Carmel Local Coastal Program. Someone not familiar with the law of groundwater rights may have prepared this proposal.

**Response:** Staff's familiarity with groundwater rights law does not lead to a conclusion that the recommendation to restrict a private party from drilling a well is "an unconstitutional and illegal taking of water rights." There is a difference between a property right and a discretionary permit to allow that right to be exercised. The Coastal Act states that well drilling is development that must be authorized by a coastal permit consistent with the Coastal Act and by extension the local coastal program. The periodic review analysis documents inconsistencies with the Coastal Act from allowing private well drilling in the Cal-Am service area. Bolstering the case made in the periodic review are memoranda contained in a new County staff report on a current well application (PLN010032 for February 12, 2004). The Monterey Peninsula Water Management District and the Monterey County Department of Environmental Health staff express concerns over the long-term viability of the groundwater aquifer in the area to support well withdrawals and the cumulative impacts from multiple wells in the area.

Commission staff has said on various occasions that to satisfy Coastal Act concerns, any groundwater extractions must not result in "depletion of groundwater supplies" (Coastal Act Section 30231) nor otherwise harm resources. To date any such analyses for coastal zone wells have focused on individual and immediate potential impacts, as opposed to the long-term, cumulative, groundwater basin impact. If the County or another entity were to provide evidence through a comprehensive hydrologic study that individual private groundwater extractions did not have adverse impacts, then a policy addressing when and how to allow wells could be considered.

**Comment: LU-9.4 Add review criteria for any proposed desalination facilities.** Monterey County has an ordinance that requires that any desalination, plant be owned and operated by a public entity. The Commission staff appears not to be aware of this ordinance, which was adopted in 1989. The criteria for a proposed facility should not only be "public as warranted by application of Coastal Act policies" but also that the proposed facility be a legal land use as warranted by local code. The Coastal Commission is required to acknowledge and not promote any violation of the County's ordinance and the Local Coastal Program should reflect this fact (Cal-Am is not a public entity, it is a privately-owned enterprise.)

**Response:** Commission staff did review the County's existing *County Code* and noted in the Draft Findings at page 54:

*Planning has continued for development of new water supplies, including potential desalination facilities at Moss Landing, to serve the Cal-Am service area and possible*

*other users. The LCP does not contain adequate policies to assure that such new facilities will be development in conformance with Coastal Act policies to support priority uses, protect coastal resources, concentrate development and not result in individual or cumulative impacts. The County's Health and Safety Code (County Code Chapter 10.72) does, however, include policies and regulations for permitting the construction and operation of desalination facilities. These include application requirements related to construction, financial capabilities, inspection and testing, and other issues. They also include a policy specifying that desalination facilities be owned and operated by public entities.*

The County may propose additional or more limiting criteria for desalination projects beyond what is required under the Coastal Act. But the certified LCP should include adequate policies and standards to ensure that proposed desalination projects are thoroughly evaluated and adverse impacts are avoided or minimized and mitigated. *County Code* Chapter 10.72 is not currently part of the certified Local Coastal Program.

**Comment: LU-11.1 Re-designate Elkhorn, Slough Foundation parcel to Resource Conservation.** APN 133-21-007 is currently zoned Recreation and Visitor Serving Commercial. The parcel has been annually used for two decades by the Moss Landing Antique Fair as a parking lot. Re-designation would, in effect, shut down the Antique Fair and severely harm the seventeen charities that derive benefit from the Fair. A single review by your staff of the history of Moss Landing would have revealed the grave damage this proposal will cause to the Moss Landing Community and the public charities that depend upon it.

**Response:** Recommendation LU-11.1 states:

*Redesignate APN 133-221-007 from Recreation and Visitor Serving Commercial to Resource Conservation Wetlands and Coastal Strand or other appropriate designation and rezone accordingly.*

The recommended rezoning to Resource Conservation would not necessarily preclude the Antique Fair from continuing as claimed by the commenter because the district allows both for legal nonconforming uses to continue and for low-intensity day use recreational uses. The staff recommendation also says that rezoning could be to another appropriate designation, so for example, the County could decide to designate the property as Scenic and Natural Resource Recreation. The recommendation to redesignate was based on the fact that the site is a seasonal wetland now owned by the Elkhorn Slough Foundation, and the current Commercial Recreation & Visitor Serving land use designation, allows hotels, restaurants, and the like. The County should consider a more appropriate designation based on the resource and the objectives of the Foundation.

**Comment: LU-11.2 Update Moss Landing Community plan.** There appears to be no justification to update the Moss Landing Community plan with the cited changes because the components of the recommendations are merely restatements of the current policy. However, there is a thinly veiled objective within the staff's proposed changes to undermine the development of visitor-serving facilities in the Moss Landing Community. The Department of Boating and Waterways has given public funds to the Moss Landing Harbor District for this

expressed purpose based on the existing policies in the existing program, and altering these policies after the fact to restrict publicly owned visitor-serving facilities may not only be unethical but may have consequences that undermine the principle that justified the adoption of the Coastal Act over two decades ago: the protection of the public's right to access the coastal resources.

**Response:** The implication in this comment that good, existing policies would be replaced does not reflect the intent of the recommendation to update the Moss Landing Community Plan. The recommendation provides:

*Amend the plan to ensure that priority uses, including an upland dredge rehandling and/or disposal site and dry storage, are accommodated in a manner that protects scenic, habitat, wetland, historic, and other coastal resources. Assure that: the redevelopment of the Harbor District's North Harbor parcels preserve Bay and Harbor views; the redevelopment of the former National Refractories accommodates necessary priority uses and redesign of the transportation system (including any road realignment, parking area, and rail line) that furthers the objective of maintaining Highway One as a two-lane road in the Moss Landing corridor (see Recommendation LU-14.1); and comprehensive shoreline management is completed (see Recommendation SH-31.2).*

The recommendation does not suggest development of an updated plan that strays from Coastal Act priorities. Commission staff believes there is ample evidence that aspects of the plan are outdated. Indeed, a primary intent of the recommendation was to assure that high priority uses such as those that would facilitate maintaining the harbor, would not be precluded by other development, possibly of a lower priority. Public access and other development that provides and/or protects visitor-serving use of the coast is also a high priority. However, Commission staff is open to discussing with the County whether updating the plan is a higher priority task in light of other County priorities and how extensive such an update needs to be. It is also noted that the draft *21<sup>st</sup> Century General Plan Update* also includes an action to update the Moss Landing Community Plan..

**Comment: LU-11.3 Avoid or minimize damage to marine organisms from seawater pumps.**

The Board of Supervisors, the California Regional Water Quality Control Board, and the State Water Resources Control Board have sole authority to set, enforce and permit public health ordinances, water quality standards and NPDES facilities. The Coastal Commission does not have any statutory or legal authority to set or enforce these standards. The Commission staff should review the *Porter-Cologne Act*, the *Federal Clean Water Act*, and the California *Government Code* before proposing such policies to Monterey County.

**Response:** This comment refers to recommendation LU-11.3 that says:

***LU-11.3 Avoid or minimize damage to marine organisms from seawater pumps:** Add a policy to the LCP as follows: Prior to approval of any new or expanded seawater pumping facilities, require the evaluation of alternatives, selection of the least environmentally damaging alternative, use of Best Available Technologies, and provision of maximum feasible mitigation measures to avoid and/or to minimize damage to marine organisms due to entrainment in accordance with State and Federal law (see also Recommendation LU-9.4 regarding pumping for desalination plants).*

This recommendation addresses the protection of marine resources from entrainment. The Coastal Commission-- and local government through a certified LCP-- have authority to regulate proposed development for conformance with Coastal Act policies that require protection of marine resources, including Coastal Act sections 30230 and 30231 as follows:

**Section 30230 Marine resources; maintenance**

*Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.*

**Section 30231 Biological productivity; water quality**

*The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.*

These sections and other provisions of the Coastal Act provide significant authority for both the Commission, and local government through a certified LCP, to review proposed development that has impacts to marine resources.

**Comment: SH-29-7 Manage forests to address pine pitch canker.** Monterey County does not have the resources to satisfy the staff's proposal to map all the trees in the county at this time. Further, current evidence appears to indicate that pine pitch canker may be peaking, and more research is necessary before intelligent and implementable policies can be proposed for the Local Coastal Program.

**Response:** The first sentence of the comment refers to staff recommendation, SH-29.7 that provides:

***SH-29.7 Manage forests to address pine pitch canker:** Add to required contents of Forest Management Plans: Examination of all trees potentially infected with pitch canker in order to identify and map all healthy (i.e., non-symptomatic) and/or disease-tolerant trees. Include recommendations to address any trees infected with pine pitch canker, including proper disposal if they are removed, based on latest scientific information and recommendations of Pitch Canker Task Force.*

To clarify, this does not say that all trees in the County need to be mapped at one time. Tree identification on specific sites already occurs and would continue to occur as part of forest management plans, which are required in conjunction with new development.

The second sentence of the comment, that knowledge of pine pitch canker is evolving is true. This is recognized by and encompassed in Recommendation **SH-29.9 Continue Monterey Pine forest research**. In recognitions of County responsibilities and constraints this recommendation is not primarily directed to the County, but to other entities. Commission staff fully agree with the comment, but this does not negate any of the staff's draft recommendations.

**II. COMMENTS FROM MOSS LANDING HARBOR DISTRICT, LINDA G MCINTYRE,  
ESQ. GENERAL MANAGER/HARBORMASTER**

**Comment:** I would like the record to reflect that many of the proposals are very harsh and economically damaging. Although your mission is to protect the coast and coastal habitat, it must be balanced with economic considerations and safety considerations. For example, proposed LU-11.3 (and LU-9.4), if implemented, will add unknown delay and no less than \$50,000 to the Moss Landing Harbor District's development costs at North Harbor, a project that has been tediously winding its way through the cumbersome and expensive permit process for years.

**Response:** This comment refers to Recommendations LU-11.3 and LU-9.4 that state:

*LU-11.3 Avoid or minimize damage to marine organisms from seawater pumps: Add a policy to the LCP as follows: Prior to approval of any new or expanded seawater pumping facilities, require the evaluation of alternatives, selection of the least environmentally damaging alternative, use of Best Available Technologies, and provision of maximum feasible mitigation measures to avoid and/or to minimize damage to marine organisms due to entrainment in accordance with State and Federal law (see also Recommendation LU-9.4 regarding pumping for desalination plants).*

*LU-9.4 Add review criteria for any proposed desalination facilities: Add coastal zone wide policy standards to the LCP to guide review of any proposed desalination facility as follows: Desalination facilities must:*

- A. Be public as warranted by application of Coastal Act policies;*
- B. Avoid or fully mitigate any adverse environmental impacts to coastal resources;*
- C. Be consistent with all LCP and Coastal Act policies, including those for concentrating development, supporting priority coastal uses, and protecting significant scenic and habitat resources;*
- D. Be designed, sized, and located as part of a comprehensive regional water management program that includes conservation and recycling, and is based on adequate land use planning and adopted growth projections;*
- E. Use technologies that are most energy-efficient. Estimates of the projected annual energy use and the environmental impacts that will result from this energy production, and evidence of compliance with air pollution control laws for emissions from the electricity generation should be submitted with permit applications;*
- F. Use, where feasible, sub-surface feedwater intakes (e.g., beach wells) instead of open pipelines from the ocean, where they will not cause significant adverse impacts to either beach topography or potable groundwater supplies (see Recommendation LU-11.3);*



*G. Use technologies and processes that eliminate or minimize the discharges of hazardous constituents into the ocean and ensure that the least environmentally damaging options for feedwater treatment and cleaning of plant components are selected. Opportunities for combining brine discharges with other discharges (e.g., from a sewage treatment facility or power plant) should be considered and the least environmentally damaging alternative pursued. Applicants should provide information necessary to determine the potential impacts to marine resources from the proposed intake and discharge. Obtaining this information may require new or updated engineering, modeling and biological studies, or in some cases may be obtained from pre-operational monitoring, monitoring results from other desalination facilities, and pilot studies conducted before building a full-scale facility; and*

*H. Be designed and limited to assure that any water supplies made available as a direct or indirect result of the project will accommodate needs generated by development or uses consistent with the kinds, location and densities specified in the LCP and Coastal Act, including priority uses as required by PRC 30254.*

It is unclear from the comment specifically how the District believes the above policy changes would result in unknown delay and increased development costs to the North Harbor project. Commission staff believes that the proposed policy revisions are necessary to ensure adequate consideration of alternatives and development consistent with the Coastal Act and that this policy only expands upon requirements that planning for North Harbor avoid and minimize impacts, identify the least environmentally damaging alternative and feasible mitigation measures for any proposed project. In addition, Commission staff has been discussing with the County ways of expediting permit processing for the North Harbor project. The proposal has just been approved by the County Planning Commission, and the part that needs Coastal Commission review will be processed by the Commission in the near future.

**Comment:** I believe that LU-11.2 is duplicative and again economically unreasonable because the Harbor District is already subject to restrictions on the use of its own land from numerous governmental agencies for dredge rehandling, as evidenced by the permit condition issued by the USFWS requiring that the District convert a 5 +/- acre parcel of its property, used once for dredge material rehandling, to a spineflower habitat in perpetuity. This habitat project has cost some \$365,000 to date, and very few of the spineflower seedlings have germinated despite the expenditure of substantial sums of money, time and resources by professional plant biologists. The use of the land for any other purpose is prohibited.

**Response:** See response to County Comment on LU-11.2. The fact the commenter notes that the spineflower restoration has not been fully successful may reinforce the recommendation that the LCP needs to be updated. The subject site is designated commercial recreation and visitor-serving and not resource conservation.

**Comment:** Many of these recommendations before the Commission, if implemented, would constitute unfunded mandates. It would serve the public and those impacted by many of these recommendations well if you were to explore and provide finding support options concurrent with your policy recommendations.

**Response:** We are committed to working with the County to prioritize implementation of the recommendations and identify funding sources, where necessary.

### **III. COMMENTS FROM COAST PROPERTY OWNERS ASSOCIATION (CPOA), LISA KLEISSNER**

**Comment:** There is confusion about which documents are the correct documents and where these documents are located for access by the public.

**Response:** In response, staff developed an Index to the Periodic review Documents. This was included on all CD discs containing the report that were distributed and on the Commission's Periodic Review web page.

**Comment:** Many policy recommendations would result in a building moratorium and a take in Big Sur as well as other parts of the county.

**Response** In no periodic review recommendation have we called for a building moratorium. On the contrary, where staff has identified the need to comprehensively take some action (e.g., on the North County overdraft), we have concurrently recommended a way to process permits in the interim. Similarly, staff has not suggested eliminating the basic policy that the County has that prevents a taking in the application of the policies.

**Comment:** Recommendations to prevent any further residential development in Big Sur are contrary to the wishes of the Big Sur community and contradict estimated residential development counts that were agreed upon at that time of the original LCP.

**Response:** There are no periodic review recommendations that say that any further residential development in Big Sur is precluded.

**Comment:** Policy recommendations promoting further buyout of the Big Sur community are contrary to the wishes of the Big Sur community and would result in further reduction of already scarce local community resources.

**Response:** This comment reflects a position many, but not all, in the Big Sur community support. The Coastal Commission has long supported public acquisitions of appropriate lands for resource protection and/or public access opportunities. However, the periodic review does not recommend specific additional land for public acquisition, other than the remaining portions of the Doud Ranch on the east side of Highway One (Appendix B, Table PA-10e). Staff would agree that there may be other options for preserving views and other resources on this site and have revised the recommendation accordingly (see Addendum above)

**Comment:** Policy recommendations encourage development on State and Federal lands while limiting and discouraging development on private property - clearly a double standard.

**Response:** The periodic review policy recommendations are generally based on the resource value of the land, rather than ownership status. Development restrictions would generally apply

regardless of ownership. However, it is true that staff would generally recommend public recreational uses for lands in public ownership, rather than on private residential parcels. This comment could better be addressed if Commission staff had more specific comments about specific recommendations of concern.

**Comment:** Policy recommendations do not address sorely needed permit streamlining to allow residents to maintain existing roads and structures resulting in unintended degradation to the natural and built environment as well as resulting in financial hardship to the residents of Big Sur.

**Response:** The Periodic review Chapter 10 identified many procedural and implementation issues that need to be addressed but no specific recommendations have been made. Staff encourages the County to work with Commission staff to identify possible permit streamlining measures that are consistent with the Coastal Act and the California Code of Regulations.

**Comment:** The recommendation for more stringent ESHA policies will increase cost of development, result in takes and not necessarily result in preserving sensitive habitats. This recommendation is not grounded in sound scientific or biological research.

**Response:** This comment may refer to a recommendations under Issue **SH-4: Resource-dependent Uses in ESHA** (Appendix A pages 32-34) that, in summary, provides:

*Adopt policy that ensures that sensitive habitats are not significantly disrupted and that only resource-dependent uses are allowed within them.*

This recommendation is based on the Coastal Act. Section 30240a that states:

*(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.*

**Comment:** Restricting development on any parcel if it can be seen from a public trail could result in massive takes of private property in Big Sur and is contrary to the wishes of the Big Sur community.

**Response:** This comment refers to the following summarizing statement made in the Staff Report (November 26, 2003, p. 11):

*New development that is allowed either outside the viewshed or as exemptions in the viewshed needs to be designed, scaled and located so that it does not adversely impact views as seen from public trails, does not change the overall Big Sur community character, does not impact riparian systems, does not intrude on sensitive habitats, and does not require obtrusive or habitat damaging fire protection measures.*

The Periodic Review evaluation documented some cases where views from trails was an issue in the County permit process (Draft Findings, page 389). However, a comprehensive analysis of structural visibility from trails was not undertaken, as it was for visibility from Highway One. The current LCP prohibits, with some exceptions, new development in view of Highway One

(the critical viewshed). Current LCP policy 3.2.4.A.2 already addresses siting and design of structures visible from other public locations (outside of the critical viewshed), that would include views from public trails. This policy would not result in a take of private property since its implementation would not result in prohibiting development on an entire parcel. The periodic review does not contain a recommended change to this policy, but rather recommends that it be retained (Appendix A of Draft Findings p. 195).

**Comment:** Many recommendations have no nexus to the Coastal Act. This broadening of the Commissions powers and this blatant misinterpretation of the Coastal Act is inappropriate.

**Response:** Commission staff disagrees with the comment. The Periodic Review evaluated the certified LCP to determine if it was being implemented in conformity with the policies of Chapter 3 of the Coastal Act in light of new information and changed conditions.

#### **IV. COMMENTS FROM DR. DEBORAH ROGERS**

These first set of comments are made on the draft findings; Staff response on these various comments follow on page 18 of this report.

**Comment: In the Overview (pp 176-178)** the authors provide some general information about the Monterey pine forest habitat in Monterey County and some of the reasons that higher levels of protection (and this periodic review) are needed. I agree with the findings that this forest type must be managed and protected as a sensitive forest habitat, and not just as individual trees. Perhaps it can be more clearly stated that many of the ‘values’ of this forest habitat are a feature of a functioning forest ecosystem and not of individual trees (e.g., protection and food for wildlife, species reproduction, species diversity, soil stabilization, etc.).

**Comment:** Another general point on this topic that should be more prominently and emphatically stated is that planting trees is not a proxy or ecological equivalent to having trees regenerate naturally. Although planting trees is routinely used as a mitigation measure, it is a poor substitute (in the context of a healthy intact forest; the urban tree situation is a different context) for maintaining natural regeneration. If trees are not regenerating naturally in the forest, or are not allowed to (e.g., small trees are not protected and routinely are uprooted and cut down, or artificially ‘thinned’), this constitutes a serious forest health problem. Abundant natural regeneration, adequate genetic diversity, and allowing for natural selection to take place are necessary for adaptation of plant species. Removing many seedlings or young trees, for example, undermines local adaptation. Interfering with any of these processes has an impact on long-term forest health. Further, perhaps it can be stated here that a *change in emphasis* is needed because this trend of increasing development cannot continue indefinitely. That is, continuing to subdivide the ‘pie’ of ecologically sensitive habitat, or reducing the forest further with developments that leave a ‘percentage’ for conservation is a strategy with limited utility. Too soon we arrive at a point of conserving 50% of almost nothing. So review of development proposals, at some point must change to reflect the point of maximum allowable impact (or ‘no new impact’). Thus, the authors may wish to suggest that the point has been reached where ‘new development’ would rarely be acceptable, and ‘redevelopment’ will be more the norm. Is that not the case if 50% of the habitat has already been lost? The term ‘finding a balance’ is often used when describing the process of making development vs. conservation decisions. If the ‘balance’

sought is 50:50, then no new development would be permitted. 'Balance' must take into account historical loss of habitat, not just remaining habitat.

**Comment:** The authors make the point in several places that there has been significant new information available for Monterey pine since the LCP was written. While true, there are several threads to this message that are better expressed if teased apart. First, it is a time-consuming process to bring relevant information from research into management practice and the Monterey County staff may not have the resources required to do this effectively. This further emphasizes the critical role played by nonprofit and academic organizations that seek to infuse more science into ecosystem management. Second, there is a strong need for additional research on this species; there are many existing information gaps. Finally, yes, there is substantial new information since 1988 that should be incorporated into management plans. It seems that these points are worth separating to illustrate that the mere existence of information does not guarantee its consideration in LCPs or other plans.

**Comment:** Climate change (that is, in current parlance—the accelerated changes in climate that are related to human influences, particularly greenhouse gas emissions) has been an ongoing influence on all habitat types, including the Monterey Pine Forest Habitat. Although climate change is a function of both natural climatic cycles and human influences, this unnaturally high rate of change puts additional pressure on species. Climate change means that healthy ecosystems, genetic diversity, and large protected habitats and adjacent potential habitats (to allow migration) are more important than ever. The general point here is that 'new' and 'preventable' developments must be viewed in the context of 'historic' losses of habitat and negative influences, current and ongoing influences, and influences that cannot be easily prevented or controlled (e.g., climate change, pollution). As such, the 'impact' of proposed new developments must be weighed against the historic, continuing, and expected impacts from all sources –and not just the impact of that particular development (see Figure 1, attached). This gets to the issue of 'cumulative' impacts and is a key point that should be emphasized. I recognize that the Periodic Review contains this point on page 204, but it deserves more emphasis and a more prominent position in the report.

**Comment:** Authorities for developing, reviewing, and approving forest management plans that involve or include environmental sensitive habitats: Several points mentioned in reference to forest management plans (e.g., page 199) raise the point of appropriate expertise for developing and reviewing such plans. Terms or concepts such as 'pests' (without distinguishing between native insects that are part of a natural forest and exotic invasive insects that might require management intervention), 'over-stocking' (in reference to a high density of seedlings from natural regeneration), and 'fuels' (instead of understory and the ecological role of that understory) are concerning. In keeping with the well-based general recommendation of the Coastal Commission staff to approach habitat management and conservation from a 'whole forest' or 'intact ecosystem' perspective, the plans must reflect these objectives, rather than individual tree management. Further, the expertise applied to such plans must reflect an understanding of forest (or other ecosystem) functioning, rather than satisfying an objective of a 'production' or 'commercial' forest.

The objective of obtaining a healthy, functioning, forest ecosystem requires considerable breadth of expertise—in forest ecology, hydrology, wildlife biology, plant reproductive biology, etc. It is doubtful that one individual possesses all of the necessary expertise. Further, a forestry degree—depending on when and where it was obtained, and what courses and experience comprised the academic program—does not necessarily reflect this expertise. Thus, it would better serve the objectives of forest management planning—where the interest is in providing for a functioning forest, with all of its component species and processes—to have a professional team develop the plans, a team that minimally includes an ecologist and a wildlife biologist, and with input from those with nutrient cycling, hydrological processes, climate, genetic, and other appropriate expertise. Monterey County and its neighboring regions are rich in intellectual resources pertaining to biological sciences and ecosystem management and should draw on these resources—from academic, agency, business, and nonprofit sources—without hesitation.

**Comment:** It could be better emphasized at the beginning that one of the guiding principles is that there must be different standards for protection for the Monterey Pine Forest habitat depending on the size, location, status, etc. For example, whereas encouraging natural regeneration (of the pine and other species) is critical for the larger intact forest areas, planting (genetically appropriate) Monterey pines is a good practice for more fragmented, smaller, or specifically urban areas. Further, whereas the loss of individual trees may be a reasonable currency by which to measure impact for street tree situations or small fragmented areas, it does not capture the loss of ‘habitat’ in larger forest areas.

**Comment:** Pp 177-178: I suggest the last sentence on page 177 that finishes on page 178 be changed as follows: “This should include updated policies, standards, and management measures to address long-term preservation of identified habitat, protection of genetic diversity [and integrity](#), management of [exotic invasive species and their impacts \(including pitch canker\)](#), [new development- delete] redevelopment within the forest canopy, and restoration of [suitable habitat areas – delete] currently degraded areas [that have habitat potential](#).”

**Comment: P 178:** “The three California populations are geographically isolated and display genetic differences, as well as varying degrees of disease resistance.” I assume that the authors wish to convey the idea that the populations are different from one another. However ‘geographically isolated’ could be taken to mean that they are distant from us rather than from one another; and displaying ‘varying degrees of disease resistance’ seems a bit of a nonsequitur, as well as causing confusion as to whether the ‘variance’ is within or among populations. I suggest this as an alternative sentence: “[The three California populations are well separated from each other geographically, and are differentiated from each other genetically and ecologically—displaying genetic differences in such traits as resistance to various diseases and growth properties, and ecological differences including hybridization with other pine species and differing wildlife and plant species associations.](#)” (Or you could simply end the sentences after “ecologically”.) This is general information and need not be referenced.

**Comment: Pp 181-182 (Pine Ecology):** It may be beyond the scope of this review to provide much detail here. However, perhaps a bit more information could be provided about Monterey pine ecology, particularly those attributes that may be ‘defining’, unusual, or germane to conservation efforts. I provide a draft narrative below that should be edited as the authors see fit.

**Comment: Page 185 (Threat to Resources):** This is a key section and I suggest expanding it, or at least providing key threats in a bulleted form to emphasize that each one is a threat in itself. I would also suggest a more parallel presentation of the different threats, with subcategories as appropriate. So, for example, ‘pampas grass’ and ‘pine pitch canker’ are two examples of two subcategories of the general threat of ‘exotic invasive species’. I would indicate here that the pitch canker threat is covered in more detail later (page 186-187), but probably condense that section somewhat in keeping with the overall topic of threats, and also expand some of the other threats. For example, for the exotic invasive plant species, one could indicate the reason that they are a threat, and refer to some of the more serious exotic invasive plant problems in native Monterey pine forests (e.g., Table 13, page 59, Rogers 2002). That table is not comprehensive and may be out-of-date but gives a good representation of most of the more serious problems. So, for example, one could present the threats as follows:

- Direct loss of habitat (conversion to other uses)
- Fragmentation of habitat
- Degradation of habitat (soil erosion, soil compaction, edge effects from developments, etc.)
- Changes in natural disturbances (e.g., fire suppression)
- Introduction of exotic invasive species (plants—e.g., iceplant, Cape ivy, Pampas grass, French broom, blackwood acacia, etc.; [See Table 1 at the end of these comments, reprinted from Table 13, page 59, Rogers 2002];
- Pathogens—e.g., fungus associated with pitch canker disease, etc.
- Genetic contamination: from plantings of nonlocal Monterey pine along roads, in city parks, etc.
- Climate change
- Pollution
- Genetic erosion: through loss of trees, degradation of habitat that may negatively impact natural regeneration, and inbreeding as a result of habitat fragmentation.

**Comment: Page 186 (third paragraph):** I’m not sure that I would agree that the primary effect from fire suppression is “forest crowding and reduced forest vigor”. Rather, fire suppression has undoubtedly changed the nature of natural regeneration: for example, rather than dramatic regeneration events following a fire, where the understory would have been cleared and large amounts of seeds would have been released from the semi-serotinous cones, regeneration would have been more gradually and on smaller scales. This has unstudied genetic and forest health consequences. If by ‘forest crowding’, the authors mean buildup in the understory of exotic invasive plant species (which may be the case in some areas), that should be stated clearly.

**Comment:** I’m not sure what is meant by the phrase “genetic destabilization” or “hybridized pine stock”. I expect these statements are meant to refer to genetic contamination; that term, rather than ‘genetic destabilization’, should be used here. Unless otherwise defined, ‘hybridized stock’ often means interspecific hybridizations—which I’m sure the authors did not intend. Rather, I would couch this comment in terms of the concerns about historic (and possibly ongoing) introductions of nonlocal Monterey pine—the seed having been collected originally from other (e.g., Cambria or Año Nuevo) populations and planted in the Monterey area. This practice has the potential to undermine the local adaptations of the local native Monterey pines.

Even seed from the Monterey area—if planted in areas that differ strongly in features such as soil type or microclimate—could be considered ‘nonlocal’ if they are adapted to an environment that differs substantially from the environment into which they are planted.

**Comment: Pp 186-187 (Pine Pitch Canker):** Although the general information provided in this section is well-founded, some of the main and most compelling points are under-stated, and others are mildly misleading. For example, the main point in this section should be that pine pitch canker is a dramatic example of what can happen when an exotic invasive pathogen is introduced to the pine forests. There has been highly mortality, but the lack of total mortality is not because of any direct intervention on our part—at best, we slowed the spread of the disease. Rather, the remaining healthy forests and recovering forests are the result of natural resilience and some genetic diversity in response to this pathogen. We did not develop any cures, effective treatments, or engineer any genetic resistance. This point should be emphasized because it is reasonable to assume that there may be future introduced diseases or insect threats, and the ability of the pine forest to emerge from those challenges will be based on whether the forest has sufficient health and genetic diversity—and not likely based on much that we do. Further, it is financially unfeasible and highly impractical to believe we can develop treatments or cures for all such possible threats, or could deliver them effectively at a forest-wide scale.

**Comment:** I disagree with one specific statement (first paragraph, page 187) that “It thus appears that it is critical to limit the spread of the fungus until a treatment is identified or disease-resistant stock is available.” Rather, any apparently disease-resistant or partially-disease resistant stock (i.e., I say ‘apparently’ or ‘partially’ because resistance in the longterm is not yet known; and resistance to new pathogen types or variants is unknown) has come directly from the forest itself (e.g., seedlings grown from native trees, not engineered in any way). And there are many equally ‘resistant’ seedlings already growing in the forest without any intervention on our part. All we are doing, is identifying some level of resistance in some trees, and scaling up that source of resistance. I do not perceive that we are waiting for a treatment to be developed; rather, the main source of forest recovery is the natural genetic diversity and forest ecosystem functioning ... As is stated on page 204 “The best solution to combat pitch canker is to preserve the habitat and encourage regeneration of Monterey pine with the hope of natural resistance in the future.” Let me emphasize: any resistance, putative resistance, or partial resistance in any stock that is being called ‘pitch canker resistant stock’ is natural resistance: we are just scaling up genetic variants that have been identified as having some resistance to the disease. As such, the foundation of pine pitch canker resistance, is the natural and healthy condition of the forest itself, and that is what we need to nurture and protect to fend off future epidemics. Indeed, there is a direct relationship here: the more habitat and trees that are lost, the more that natural regeneration is impacted, the more genetic diversity is lost ... the less likely it is that the Monterey pine forest will be able to withstand and recover from the next exotic invasive pathogen, insect, or other threat.

**Comment: Page 187-190 (Responses to Threats):** Because many of the activities listed in this section are indications of concern about the Monterey pine forest habitat, and less so any direct impact on the forest, I’m wondering if a better title for this section might be: ‘Indications of Concern’ or ‘Reactions to Increased Threats’. For example, the petition to have Monterey pine listed as ‘threatened’ was withdrawn; the 18 recommendations in the University of California



report (Rogers 2002) have not been carried out—there are just recommendations and there is no body responsible or with the authority to implement this suite of recommendations. The Monterey Pine Forest Watch group is active in education and advocacy—because of the serious concerns about the worsening condition of the local Monterey pine forests. So these are as much ‘symptoms’ of a worsening situation as they are in any way a ‘response’ or improvement. My concern here is that the activities listed be clearly understood as ‘advocacy’, ‘education’, ‘research’ or such, unless otherwise indicated, and not direct improvement of the forest health or conservation status.

One suggestion is to begin that section with: “Since 1988, continuing and new impacts on the Monterey pine forest have prompted the drafting of a petition in 1999 to have the species listed as ‘threatened’, the passing of a State Senate Bill and formation of a Task Force to address pine pitch canker, the organization of a symposium in 1996, the formalization of a previously *ad hoc* group to serve as advocates and public educators for the Monterey pine forest, a higher-risk rating by the California Native Plant Society, and the founding of a university-based organization to improve the use of science in Monterey pine conservation.”

**Comment:** Small point: on **page 189** the authors refer to the non-profit *Monterey Pine Forest Watch* as having “work[ed] since 1992 to educate policymakers ...”. While an *ad hoc* precursor of this group has been doing education and advocacy on behalf of the pines since 1992, the group did not become a nonprofit until recently (2000 perhaps?).

**Comment: Page 191 (Pine Policy 32):** It is concerning that trees less than 12 inches in diameter seem to have little protection. It might be beneficial to make a strong statement near the beginning of the report that the foundations of a healthy pine forest ecosystem (for any of the plant species, not just the pines) are maintenance of natural processes (pollination, seed dispersal, etc.), maintenance of genetic diversity, and protection of conditions for natural regeneration. When trees less than 12 -inches in diameter are not valued, this undermines the entire natural regeneration process. Abundant seed production, seed germination, and adequate seedling growth are prerequisites to local adaptation. Natural selection—not human intervention—should be deciding which seedlings survive to adulthood and contribute to the next generation. Without this, pine adaptation is undermined. Natural regeneration must be protected, not just mature trees. Policies that focus only or primarily on mature trees are focused on the present generation only and not longterm forest health.

**Comment: Page 210 (Factors in identifying Monterey Pine Forest ESHA):** One sentence requires rewording: “Coupled with the uncertainty of climate change, and the relative lack of knowledge about the genetics of Monterey pine, it is difficult to fully understand the status of the Monterey pine forest health, and whether it is effectively adapting to the environmental changes within and around it.” The important points in this sentence are perhaps lost. First, although there is uncertainty about the nature of climate change, there is certainty that change is happening at an accelerated rate and it will have serious consequences. Coastal areas in particular are expected to have dramatic impacts including increase in sea level, increase in storm penetration inland, increased erosion, etc. (e.g., King 2004). This will no doubt put increased pressures on all species ... and although we don’t know exactly what that pressure is, we know it is pressure. And the best way to prepare for it, is to have a healthy, intact, well-buffered functioning forest and

healthy populations of its constituent species. If species are already very vulnerable because of small population sizes, low genetic diversity, or little remaining habitat, they will not be well-equipped to deal with climate changes. Secondly, the point about ‘lack of knowledge about the genetics of Monterey pine’ is confusing. Elsewhere it is stated in this periodic review that there has been significant new genetic knowledge for this species. I think the intended point is that we don’t know how much the natural levels of genetic diversity in this species have already been impacted by harvesting and development, mortality from pitch canker, and genetic contamination. However, there have certainly been impacts, including loss of genetic diversity. An alternative comment here could be: “The accelerated pace of climate change, the historical migration response of Monterey pine to climate change, and the certain loss of genetic diversity from direct harvesting and other impacts, suggest that conserving the diversity and habitat that remain is critical for longterm viability of the pines and associated species.”

**Comment:** “More recently, research by Deborah Rogers recommends ...” As this was not really research, but a literature review and analysis, and as this is not a personal comment, but a finding in a University of California report, I recommend the sentence be restructured as follows: “More recently, one of the recommendations within a University of California report (Rogers 2002) is the designation of genetic reserves for Monterey pine ...” “The scientific basis for reserves is clear on the point that the larger the reserve, the more likely ...”

**Response:** These detailed comments by an expert in the field are noted and will be useful in any future analysis and revisions to the draft periodic review report findings on Monterey pine. In the interim, should staff receive additional inquiries concerning the Monterey Pine sections of the report, they will also be referred to the information in this letter.

The following comments are made on various recommendations:

**Comment: SH-29.9: Continue Monterey Pine Forest Research.** Many different entities find value or have interests in the native Monterey pine forests. Thus, I’m not sure it is appropriate to just focus on the ‘governmental and non-profit agencies’ here to suggest they support research. I understand that universities may fall under a government category, but there are also private universities and other entities (tourist industry, grant-making foundations, individuals, etc.) who have interests and perhaps, responsibilities in this area. I’m not sure I would suggest the type of research that is most important, or give examples (e.g., genetic diversity, pitch canker). The latter has received significant research funding to date; the former is one of a constellation of information gaps. Perhaps this recommendation could be reframed as follows:  
There are many information gaps in our understanding of the ecology of Monterey pine forest habitat. Scientific research in this area benefits our ability to effectively conserve this habitat. All those with interests and responsibilities for Monterey pine forest habitat protection should be encouraging and assisting further scientific research—in any way that is within their reach (funding, conducting research, providing access to sites, etc.). The ability to positively influence the amount and quality of research, then, rests not only with universities, but with government agencies, nonprofit organizations, grant-making foundations, businesses, and individuals.

**Response:** This comment refers to Recommendation SH-29.9 Appendix D that states:

*SH-29.9 Continue Monterey Pine forest research: Governmental and non-profit agencies, that have an interest in habitat protection (along with Monterey County) should continue to support research into ways to preserve and enhance the pine forest including addressing pine pitch canker and genetic diversity.*

Commission staff agrees with comment that this recommendation is not written to apply to all the appropriate players and therefore staff is suggesting that it be revised (see revised recommendation SH-29.9 in Addendum)

**Comment: SH-29.10: Consider listing pine as threatened.**

Although the intent of this recommendation is understood, I think it may be misdirected. That is, a petition must be presented to either the Department of Fish and Game or the Fish and Wildlife Service for either of those agencies to consider listing Monterey pine as threatened.

Undoubtedly, if they were presented with such a petition, they would respond with appropriate process. So if this recommendation is to stand, perhaps it should be reframed to indicate that:

Both the US Fish and Wildlife Service and the Department of Fish and Game could provide additional protection to Monterey pine and associated habitat if it was listed federally and statewide, respectively, as threatened; and

ii) For those agencies to enact their protections, a credible listing petition must be presented.

Those individuals and organizations with the expertise to prepare such a petition should consider whether such action is warranted at this time, and continue to review the status of the species and their decision over time.

**Response:** This comment refers to Recommendation SH-29.10 that says:

*Consider listing pine as threatened: The USF&WS and/or the State Department of Fish and Game should consider listing Monterey Pine as threatened or endangered.*

Staff consulted the website of the USFWS (<http://endangered.fws.gov/listing/listing.pdf>) which notes in a February 2001 public information document that the USFWS usually nominates listing proposals, but also may start the listing with a petition from anyone. As a result staff is not recommending any modifications to Recommendation SH-29.10 at this time.

**Comment: SH-29.11: Coordinate management of protected pine forest.** Although this sounds like a good idea in principle, in its imagined implementation, it concerns me. The ‘management structure’ suggested is vulnerable to political influences. Further, coordination of management could lead to ‘one size fits all’ approaches that could be insensitive to the different qualities and needs of various forest areas, and the different ‘types of forest and pine tree occurrences (e.g., urban street trees, parks with planted pines, small fragmented areas of native habitat, larger forest areas surrounded by development, large relatively natural forest areas). One of the problems in ‘forest management’, as discussed earlier, is the tendency to use traditional ‘forestry’ skills rather than recognizing the objective of ‘forest ecosystem conservation’ and the suite of expertise that that requires. How does one ensure that the ‘management structure’ is apolitical, focused on the appropriate management objectives, sensitive to the differences among the forest areas, and cognizant of the scientific expertise required for management? Finally, it is a standard principle in genetic conservation that one needs to minimize risk by not having ‘all one’s eggs in one basket’. That is, different reserves, under different ownership and management

regimes—while not ideal—will presumably mean that all reserves won't fail from a flawed management approach.

If California Coastal Commission staff are aware of a good example of this kind of approach, perhaps it could be given as an example. I'm not aware of any. Minimally, I think this recommendation should be softened to suggest that different agencies and groups with land management responsibilities meet regularly to discuss the science and technologies of managing the pine habitat—as a support for keeping up to date on new information and interpreting that information for management. As discussed earlier, this is a challenging role. Note that the *Monterey Pine Forest Ecology Cooperative* does not specifically address management applications (intentionally) as this quickly becomes political, and is tied to management objectives. Rather, the *Cooperative* provides opportunities to for those interested to learn about the science underlying the species and processes of the Monterey pine forest (and associated) habitats.

**Response:** This comment refers to Recommendation SH-29.11 Appendix D that says:

*SH-29.11 Coordinate management of protected pine forest: Del Monte Forest Foundation, along with Monterey County and other entities, should cooperate in establishing a management structure to oversee all the Monterey pine forest, including that on portions of developed parcels. Since there are few easements that allow for third party management over many of these parcels, a mechanism would have to be developed to allow some co-operative oversight of private properties to develop and carry out forest management plans. This approach would require funding and cooperation among many public and private entities. It would also require continued scientific study to determine how to best replicate natural forest regeneration conditions.*

Commission staff understands the concerns expressed in this comment about the potential pitfalls of management. However, in Del Monte Forest virtually all the pine forest put in protective status is under the auspices of the Del Monte Forest Foundation. The long-term implementation of forest management plans, including over Foundation held easements, is the responsibility of the individual property owner. While staff can agree with part of the comment that some different management entities and strategies may be appropriate, we recognize a need for some level of coordination and cooperation that could result from implementing staff's recommendation.

**V. COMMENTS FROM THE OCEAN CONSERVANCY, KAITILIN GAFFNEY; FRIENDS OF THE SEA OTTER AND VENTANA CHAPTER, SIERRA CLUB, D'ANNE ALBERS; SAVE OUR SHORES, JANE DELAY; AND AMERICAN CETACEAN SOCIETY MONTEREY BAY CHAPTER, CAROL MAEHR**

**Comment:** Desalination: Our organizations strongly support the addition of coast wide policy standards to guide review of any proposed desalination facility as recommended in your staff report. In addition, we urge that the LCP require County participation in the Monterey Bay National Marine Sanctuary's regional planning approach to consideration of desalination throughout the central coast region. Our organizations are extremely concerned about the potential site specific and cumulative impacts associated with desalination facilities and urge that

the LCP contain policies adequate to ensure that the marine and coastal environment is fully protected from any adverse impacts associated with desalination. Such impacts include both direct impacts to the marine environment such as those associated with impingement, entrainment, discharge and intake construction, as well as indirect impacts to coastal and marine resources that are associated with the growth inducing aspect of an increased water supply. Finally, we urge that additional LCP policies be adopted that ensure that any effort to provide for future water supply in Monterey County, including desalination, be considered and permitted only in the context of a comprehensive water management plan that includes efforts to continually improve water conservation and reclamation technologies and uses.

**Response:** Commission staff believes that the comment is addressed in Recommendation LU-9.4 that suggests policies that desalination facilities must be designed, sited and located as part of a comprehensive regional management program that includes conservation and recycling and that is based on adequate land use planning and growth projections.

**Comment:** Big Sur Coast Highway Management Plan: Our organizations support your staff recommendations regarding the Big Sur Highway Management Plan. We are particularly concerned with potential impacts of highway maintenance activities on stream crossings where careful planning and construction are required to ensure that riparian values are not adversely affected. We are also concerned about landslide management, particularly the practice of sidecasting landslide debris, which can have adverse impacts on riparian habitat, beaches, bird and marine mammal habitat, and intertidal communities. We support your staff's recommended LCP language regarding landslide management and urge that the California Coastal Commission and Monterey County work closely with Cal Trans and the Monterey Bay National Marine Sanctuary to avoid and reduce impacts of Highway 1 maintenance activities on coastal resources and the marine environment.

**Response:** Comment Noted

**Comment:** Environmentally Sensitive Habitat Areas. Our organizations support your staff's recommendations regarding improving protection of snowy plover habitat and sand dune habitat. We particularly support policies that prevent development on dune habitat and adoption of a comprehensive sand dune management plan that would contain strategies to restore and protection this important and endangered habitat.

**Response:** Comment Noted

**Comment: Water Quality and Marine Resources**

Our organizations support increased efforts to ensure that activities on land are planned and mitigated so that they do not adversely affect water quality. Such efforts include stepped up enforcement of the Monterey County erosion control ordinance, expansion of efforts to control non-point source runoff from both agricultural and residential lands, and programs to restore and protect degraded watersheds. We support the recommendations regarding water quality and marine resources contained in your staff report and are particularly appreciative of the recommendations regarding improved control of golf course runoff. We urge that the Monterey County LCP clearly prohibit golf course runoff from containing pollutant levels that could be

damaging to aquatic or marine organisms or other beneficial uses and require that all golf courses implement water quality monitoring programs capable of documenting compliance with water quality objectives.

**Response:** Comment Noted

**Comment: Riparian Issues:** Our organizations support adoption of management plans for the Salinas River, Tembladero Slough, Pajaro River, and Carmel River. These rivers all present challenging flood control and habitat protection issues. We urge that the Monterey County LCP prioritize riparian habitat restoration and protection designed to protect species and reduce water quality impacts. The County should be required to pursue alternatives to lagoon breaching and structural flood control efforts and instead encourage addressing flooding problems by acquiring flood easements on agricultural fields, relocating structures in flood prone areas, and prohibiting new development or reconstruction in flood prone areas.

**Response:** Suggested recommendations CH-10.2, CH-11.3, CH-12.2 and CH-13.2 all address the need for consideration of adequate alternatives to breaching and measures to consider habitat protection needs.

**Comment: Shoreline Protection Devices:** It is well documented that seawalls, revetments, and other rigid erosion control structures destroy beach and dune ecosystems, increase erosion on adjacent properties, and hinder public access to and along the shore. Our organizations urge the Coastal Commission to recommend that the Monterey County LCP be revised to disallow shoreline protection structures and urge the county to develop a policy on planned retreat. We also urge Monterey County to be an active participant in the Monterey Bay National Marine Sanctuary's region-wide Coastal Armoring Action Plan.

**Response:** Commission staff believes the proposed regional shoreline management strategy and consideration of alternatives in suggested in recommendations CH-8.1, 8.2 and 8.3 as well as recommendations under Coastal Hazard Issues CH-1 through CH-5 in Appendix A (pp. 148-160) will minimize impacts of shoreline armoring. The Coastal Act does not say to prohibit all shoreline protective devices. Suggested recommendation CH-8.4 recommends support of the MBNMS Coastal Armoring Action Plan.

## **VI. COMMENTS FROM MONTEREY PINE FOREST WATCH, Lisa Smith**

**Comment: GENERAL COMMENTS ON FINDINGS:**

1. The MPFW applauds the Draft LCP incorporation of recent scientific research regarding the international significance of our native Monterey Pine Forest natural communities. The Draft LCP correctly notes that much has been learned about the ecological values provided by native stands of *Pinus radiata* and that large tracts of this forest type are required to adequately safeguard this natural community during future climatic changes, development pressures, and infestations of pathogens. Sound science has guided the preparation of the Draft LCP recommendations. As our scientific understanding of the unique Monterey pine microhabitats

and related geomorphic surfaces has and continues to increase, the development of commensurate conservation strategies has and must continue to become more sophisticated. We have much to learn about the complex dynamics of this rare ecosystem.

2. The Draft LCP correctly notes that the cumulative impacts of pine pitch canker, subdivision, and incremental fragmentation have damaged the integrity of Monterey Pine Forest habitat and decreased the viability of meaningful, long-term management strategies that work to promote the maintenance of natural ecological processes. Firm new LCP policies must be implemented to arrest the ongoing process of attrition of Monterey Pine Forest habitat and to protect what remains from further destructive impacts.

3. We applaud the fundamental pine forest conservation goal that is articulated in the Draft LCP: the objective of the updated LCP policies is to conserve forest habitat and large tracts of the Monterey pine forest ecosystem. Monterey pine is correctly described in the Draft LCP as an indicator species of environmentally sensitive habitat that encompasses a forest ecosystem.

4. The MPFW is pleased that the suggested LCP update includes all Monterey Pine Forest habitat on the Monterey Peninsula as ESHA, which is consistent with the ESHA designation in the Año Nuevo and Cambria stands of this unique forest type. As suggested, the definition of ESHA must be updated and standardized in order to provide consistent protection for this rare forest resource.

**Response:** These detailed comments are noted and will be useful in any future analysis and revisions to the draft periodic review report findings on Monterey pine. In the interim, should staff receive additional inquiries concerning the Monterey Pine sections of the report, they will also be referred to the information in this letter.

**Comment: Maritime Chaparral.**

5. The MPFW applauds the increased attention to Maritime Chaparral habitat included in the Draft LCP. Maritime Chaparral is often associated with Monterey Pine Forest. We suggest that ESHA guidelines for Maritime Chaparral communities include specific mention of the unique habitat areas that occur within Del Monte Forest, on the Aguajito property flanking Jacks Peak Park, and on the ridges between San Jose and Malpaso Creeks south of the Carmel River. These areas support very high quality Maritime Chaparral stands and concentrations of listed plant species that should be protected through LCP policy. Consideration should be given to including the remaining vacant privately owned parcels that support high quality Maritime Chaparral in a Transfer Development Credit program that spans the greater Monterey Peninsula area, as proposed for North County chaparral parcels.

**Response:** The comment refers to recommendations made with regard to central maritime chaparral. Although the analysis of maritime chaparral used North County as a case study area, the recommendations are intended to apply countywide, including in Del Monte Forest, as suggested by the commenter.

**Comment: SPECIFIC COMMENTS:** Suggested corrections to text:

Pg. 178, paragraph 3, last sentence....”over the last 100 years.” This process of destruction and fragmentation has been going on particularly since the turn of the 20th Century.

Pg. 184, paragraph 1, 2<sup>nd</sup> sentence...”A large section above Spanish Bay is covered by middle-aged dunes”...if you are referring to Areas 8c and b.

Pg. 190, footnote 65, “B & C (57 ac): mostly middle-aged dunes;”

**Response:** These detailed comments are noted and will be useful in any future analysis and revisions to the draft periodic review report findings on Monterey pine. In the interim, should staff receive additional inquiries concerning the Monterey Pine sections of the report, they will also be referred to the information in this letter.

**Comment:** **Appendix D Issue SH-29.9**... We would recommend the addition of wording that supports research into the complex ecology of the Monterey Pine Forest.

**Response:** This comment refers to Recommendation SH-29.9 that states:

*SH-29.9 Continue Monterey Pine forest research: Governmental and non-profit agencies, that have an interest in habitat protection (along with Monterey County) should continue to support research into ways to preserve and enhance the pine forest including addressing pine pitch canker and genetic diversity.*

Staff agrees with comment that this recommendation should be revised in the manner suggested (see revised recommendation SH-29.9 in Addendum)

**Comment:** **Appendix D of Dec 2003 Draft Findings, Issue SH-29.11**...We would recommend caution in implementing any coordinated management structure to oversee all Monterey Pine Forests, especially in light of our lack of clear understanding of the ecological processes at work within the forest and its associated habitats. Before putting such a structure in place we ought to have considerably more knowledge than we presently possess. Since the dynamics of this rare ecosystem are not well understood, our track record in managing the pine forest has not reflected sound ecological practices, and without this knowledge we could end up harming the forest despite our good intentions. Certainly the input of knowledgeable local persons should be an essential ingredient in whatever process of establishing management regimes or structures is envisioned.

**Response:** This comment refers to Recommendation SH-29.11 that says:

*SH-29.11 Coordinate management of protected pine forest: Del Monte Forest Foundation, along with Monterey County and other entities, should cooperate in establishing a management structure to oversee all the Monterey pine forest, including that on portions of developed parcels. Since there are few easements that allow for third party management over many of these parcels, a mechanism would have to be developed to allow some co-operative oversight of private properties to develop and carry out forest management plans. This approach would require funding and cooperation among many public and private entities. It would also require continued scientific study to determine how to best replicate natural forest regeneration conditions.*



Staff understands the concerns expressed in this comment about having good information and assume that the managers would use the best available information. However, in Del Monte Forest virtually all the pine forest put in protective status is under the auspices of the Del Monte Forest Foundation. The long-term implementation of forest management plans, including over Foundation held easements, is the responsibility of the individual property owner. While we can agree with part of the comment that some different management entities and strategies may be appropriate, we recognize a need for some level of coordination and cooperation that could result from implementing our recommendation.

**Comment:** As shown by your detailed case studies, current county and city preservation efforts have been ineffective, resulting in the steady degradation of Monterey Pine Forest habitat. When new definitions and policies for the protection of Monterey Pine Forest ESHA are put in place, we recommend implementation of a serious inspection process to insure follow-up and long term compliance with mitigations for any development permits, and we favor stiff fines for non-compliance. It may be a good idea to create a public watchdog commission to insure agency and public compliance with preservation and other requirements.

**Response:** Comment noted

**Comment:** We recommend a greater emphasis on the importance of the viewshed values of the forest. Despite policies protecting the public viewshed and its mention in development permits, the public viewshed from Pt. Lobos and Carmel have undergone a dramatic degradation since LCP certification.

**Response:** Commission staff recommendations suggest strengthening a variety of LCP policies regarding protection of scenic resources.

## **VII. COMMENTS FROM FRIENDS, ARTISTS AND NEIGHBORS OF ELKHORN SLOUGH (FANS) Mary U. Akens**

**Comment:** The County of Monterey has previously processed coastal development permit applications for development projects within the Coastal Zone of North Monterey County, under amended provisions of the LCP that had not been certified by the Coastal Commission. For example, a 1996 uncertified amendment, allowed the County to deem development applications complete without requiring proof of assured long-term water supply. Recently, a Draft Environmental Impact Report (“DEIR”) was circulated on the proposed Sunridge Views subdivision project. The Sunridge project is unable to assure a long-term water supply because of the North Monterey County’s severe overdraft crisis. It is, therefore, axiomatic that if the proposed Sunridge project is unable to assure a long-term water supply, then the proof of an assured water supply requirement was not satisfied. For this reason, FANS believes that all subdivision applications being processed under the 1996 proof of water amendment may not be complete and are, therefore, out of compliance with the LCP.

**Response:** To date the Commission has not received a complete LCP amendment package covering any of the County actions to modify the General Plan, LCP and Title 19 of the County Code regarding proof of water availability. Therefore, the provisions of the certified LCP that require proof of an assured long term water supply prior to the filing of a subdivisions application remain in effect. Recommendations suggest updating the LCP policies to incorporate more explicit language for restricting new subdivisions in LU-8.1 and should determine appropriate offsets as recommended in LU-8.3. However, The periodic review report emphasizes that a multi-pronged approach is need to work toward achieving coastal act objectives and suggests that the County clarify the policy against further subdivision until there is an adequate water supply.

**Comment #1: Groundwater Overdraft Protection**

FANS believes that no further new residential subdivision development should occur in North Monterey County. Additionally no new cultivation of agricultural lands should occur consistent with the Elkhorn Slough at the Crossroads Report, which states:

(K) Strengthen County policies that: (a) discourage conversion of any naturally vegetated area within Elkhorn Highlands into new cultivated agriculture, (b) encourage landowners to retire agriculture on slopes exceeding 20%, to stabilize fallow fields from erosion and over time to restore habitats, (c) encourage landowners to control invasive non-native species throughout their property, and (d) discourage development within 100 meters of maritime chaparral to avoid conflicts between management and habitat protection.

**Response:** Recommendation SH-28.1 recommends deletion of LUP policy 2.3.3.A.2 which allows conversion of maritime chaparral for residential uses on slopes less than 25% and which discourages, but allows conversion of maritime chaparral to agricultural uses. Recommendations SH-28.2 through 28.6 and ESHA recommendations in Appendix A also address this comment. Commission staff will revise recommendations in Appendix A and in SH-28.4 to be consistent in recommending *a minimum of* 100 feet for setbacks, which allows for the possibility of greater setbacks if recommended by site specific biological evaluations. (see Addendum with revisions above). The Commission has generally determined setbacks of a minimum of 100 feet to be consistent with ESHA protection policies.

**Comment #2: Taking Agricultural Lands Out of Production to Offset New Residential Groundwater Demand.**

The Coastal Commission's Draft Staff Report correctly recognizes the County's policy of removing agricultural lands from production to offset new residential water demand. For instance, the proposed Sunridge subdivision project claims to offset its water usage by removing productive agricultural land. Future potential alternatives to the severe groundwater overdraft issues include a pipeline connection to the Central Valley Project. Any connection to the CVP, however, would not necessarily benefit residential development within North Monterey County. Additionally, the County Health Department has also recognized that even when development demonstrates water savings over previous use, citizens may still be put at risk.

FANS recommends that the Coastal Commission update the LCP to protect citizens from risk even if development (whether residential or commercial) demonstrates water savings over

previous use – such as agricultural use. During times of severe drought, or until the ground water overdraft issues are resolved, agricultural land can be fallowed to protect the water supply. Residential uses commit the limited groundwater supplies to a permanent and less flexible regime of water use.

**Response:** Commission staff believes Recommendations LU-8.1 through LU-8.7 address this concern while recognizing the need to avoid potential takings when considering development on existing subdivided lots. The recommendations do not suggest that County health standards regarding quantity or quality of groundwater be lessened in any way.

**Comment #3: Secondary Units**

Appendix A of the Draft Findings focuses on Caretaker Units. Senior Citizen Units also increase or intensify water use. Therefore, any final recommendation regarding secondary units should also include Senior Citizen Units.

**Response:** As proposed in the Recommendations LU-8.1, water offsets would apply only for the first residence on a lot.

**Comment: Protections to Elkhorn Slough**

Although FANS supports most of the Coastal Commissions recommendations, FANS opposes any recommendations that may negatively effect Elkhorn Slough, such as filling wetlands. Recommendations for filling wetlands are also inconsistent with the Coastal Act policies requiring the protection of environmentally sensitive habitat areas.

**Comment #4: No Wetland Infill in Elkhorn Slough**

Recommendations for traffic circulation improvements to Highway One may have significant negative environmental impacts on Elkhorn Slough. The Coastal Commission should therefore, reconsider its proposed recommendations to fill wetlands within the protected Elkhorn Slough.

**Response:** Recommendations LU-13.9 and LU-14.1 provide:

***LU-13.9 Allow for incidental work in riparian and wetland areas:** Add a provision to the LCP as follows: notwithstanding other policies, installation of minor culvert extensions and/or additional areas of fill for the purpose of maintaining Highway One may be permitted even if they cause disturbances within the stream and/or streamside vegetation (riparian habitat), only if the following circumstances apply:*

- A. The improvement is necessary to protect human life or property, or to protect or restore wetland or other natural habitat values, or to maintain basic public access along the Big Sur Coast;*
- B. There is no feasible less environmentally damaging alternative, including the "no project alternative," consistent with the transportation function of Highway 1;*
- C. The improvement will not result in an increase in traffic capacity of the road;*
- D. No significant disruption of habitat values will result, considering the local habitat system as a whole;*
- E. No net loss of viable wetland or riparian habitat will result in the local habitat system (i.e., the coastal streams that cross the Big Sur Coast Highway corridor);*

- F. No net loss of any other environmentally sensitive habitat area will result in the local habitat system;*
- G. The project will maintain or enhance the functional capacity of the wetland or estuary; and*
- H. Feasible mitigation measures have been incorporated to minimize other unavoidable adverse environmental effects.*
- I. Improvements that cannot meet this or other LCP resource protection policies will require LCP amendments.*

***LU-14.1 Improve Highway 1 while maintaining two-lane configuration:*** Delete North County Land Use Plan policy 5.2.2.A and revise policy 3.1.2.1 and corresponding text and County Code provisions as follows: Highway One between Castroville and Salinas Road intersections shall remain a two-lane scenic road. The addition of through travel lanes, beyond the existing single lane in each direction, is prohibited. Necessary safety improvements that do not add travel lanes may be permitted, provided that the overall rural and scenic character of the roadway is not substantially altered. Safety improvements may include: alignment of Dolan Road with the Moss Landing Road intersection with some possible grade separation; improvement of the Springfield Road intersection with some possible grade separation; widening the existing motor vehicle travel lanes to a full 12 feet; paving shoulders up to 8 feet in each direction; adding or improving turnouts, paved pullouts, vista points, rest stops, trailhead parking areas, bus stops, shoulder tapers at intersecting roads, left turn safety pockets, merge lanes, access control features (i.e., frontage roads, median barriers, right-of-way fencing), and park-and-ride facilities. Also permitted are projects that maintain the existing scenic and rural character of the area and restore beneficial tidal circulation to the maximum extent feasible with a net restoration of productive wetlands in the Elkhorn Slough system, including highway realignment to avoid wetland encroachments (e.g., at Struve Pond); replacing long sections of wetland fill with causeways (e.g., at Bennett Slough and Moro Cojo Slough); and/or installing a new bridge span across Elkhorn Slough to provide the opportunity to reduce tidal flux to less-damaging pre-1946 levels.

*All development must occur within the current Highway One right-of-way or elsewhere without disruption of adjacent agricultural lands. Notwithstanding North County Land Use Plan policy 2.3.2.1 and corresponding provisions, wetland fill to accomplish incidental safety improvements or restoration projects that do not increase the overall capacity of this highway segment, is permitted provided there is no feasible less environmentally damaging alternative and feasible mitigation measures have been incorporated to minimize adverse environmental effects. Required compensatory mitigation (see recommendations for Issues SH-6: Mitigation for Habitat Loss) shall favor restoration of wetland areas filled from past construction on Highway One in the vicinity of the proposed work. Restoration plans shall address complete restoration of wetland habitats affected and include monitoring, performance criteria, and contingency remediation measures to assure the success of the hydrologic and revegetation mitigations. Pursuant to policy 4.3.5.9, all other resource protection policies also must be fully followed.*

*Filing Requirement for Subsequent LCP Amendment. Requests to amend the LCP to allow any highway project that does not meet these criteria shall not be filed absent supporting documentation that demonstrates (1) a comprehensive regional planning process has been conducted (based on thorough and up-to-date origin and destination studies for the entire area) and has identified all feasible alternatives to the proposed project; (2) the project is necessary for addressing regional transportation needs; (3) all other feasible alternatives for meeting these regional transportation needs are exhausted, including: regional demand reduction (through measures such as reduced allowable zoning densities and encouragement of telecommuting); increased use of existing passenger and freight rail lines; improved transit service; more car-pool facilities; permanent signage and/or changeable message signs to encourage Highways 1 to 101 cross-over traffic to use less congested arterial roads east of Elkhorn Slough; identification of an east-of-Elkhorn bypass route to relieve the Santa Cruz-Salinas component of traffic demand; linkage of existing County roads west of Highway 1 to provide an alternative route for farm equipment movements; identification of a west-of-Highway 1 scenic byway linking existing County roads, to provide a bypass alternative for recreational traffic and improved access to Zmudowski State Beach; and encouragement of non-motorized transportation, especially through linking existing bikeways to complete the Monterey Bay Sanctuary Scenic Trail around the perimeter of the bay; (4) policies are incorporated to ensure that impacts to agricultural lands, environmentally sensitive habitat areas, including wetlands, from any additional projects allowed by the LCP amendment will be avoided, minimized and/or mitigated to the maximum extent feasible; and (5) an analysis of impacts to Agricultural lands, if the viability of existing agricultural uses is an issue, following the specific requirements of Coastal Act Section 30241.5.*

These recommendations do not propose the filling of wetlands. Rather, they do not preclude the possibility of necessary incidental work under certain conditions consistent with Coastal Act protections and required mitigation.

**Comment: Chapter 3: Environmentally Sensitive Habitat Areas**

Subdivision development continues to be proposed adjacent to stands of maritime chaparral. It is unclear whether the County is correctly implementing setback requirements.

**Comment #5: Setback requirements.**

FANS agrees that the North Monterey County's Land Use Plan must be updated so that clear setback requirements are implemented. However, FANS believes that the recommended setback should be consistent with the Elkhorn Slough Crossroads Report "discourag[ing] development within 100 meters of maritime chaparral. . . ." North Monterey County's Coastal Implementation Plan must also be updated to indicate a clear setback requirement to protect maritime chaparral to the fullest extent possible also consistent with the Elkhorn Slough Crossroads Report.

**Response:** See Response to FANS Comment # 1 above.

**Comment #6: Set Back Requirement Should Be In Addition to Fire-Hazard Clearing Requirements.**

Any recommended setback for maritime chaparral should be in addition to the required state-mandated vegetation removal firebreak (i.e., 30-foot), which must occur outside the existing line of maritime chaparral. In other words the state-mandated firebreak setback should not be written in a way to allow property owners to remove 30 feet of chaparral to meet state fire code requirements.

**Response:** Siting and design standards for new development can more easily ensure that development will avoid impacts to ESHA in complying with fire code requirements. Recommendations CH-9.1 through CH-9.5 together will minimize impacts to ESHA from implementation of fire standards. However, policies may need to address existing development that cannot comply with restrictions limiting impacts to ESHA. SH-28.4 and CH-9.2 together ensure that vegetation clearance will be allowed in ESHA only where no other fire reduction measures are feasible or sufficient and provided measures are implemented minimize removal of vegetation and mitigate unavoidable impacts.

**Comment #7: Prohibition of vegetation removal within ESHA.**

Recommendation 28.4.B.2.a.(2) states that no new development shall be allowed in ESHA, including, but not limited to major vegetation removal, landscaping and grading, unless necessary for fire safety. The recommendation also references CH-9.3, however, CH-9.3 relates to Big Sur. Therefore, this recommendation regarding the potential of removal of vegetation within ESHAs is ambiguous and may be inconsistent with recommended LCP amendments regarding maritime chaparral setbacks. See also Comments 5 and 6.

**Response:** Reference will be corrected to refer to CH-9.2 which addresses minimizing and mitigating vegetation clearance required for existing development throughout the coastal zone.

**Comment: Chapter 4: Water Quality and Marine Resources  
Erosion Control**

FANS supports the Coastal Commissions recommendations regarding erosion control.

**Comment #8: Protection of Elkhorn Slough from Sedimentation**

Recommendations for LCP updates should incorporate and be consistent with the Elkhorn Slough at the Crossroads report. The Crossroads report states as follows:

The hills surrounding the estuary are highly susceptible to erosion. The natural Resource Conservation Service (NRCS) has documented on hillside strawberry fields an average erosion rate of over 33 tons per acre per year, one of the highest rates of erosion west of the Mississippi River. Without proper management, the sediments and agricultural chemicals carried by this erosion eventually make their way into the estuary. Proper management of upland areas throughout the Watershed is extremely important, both to the health of the estuary, as well as to the long-term sustainability of the Watershed's rich agricultural resources.

**Response:** While various water quality recommendations address this issue in some cases the County may not be the agency with lead responsibility. Recommendations in Appendix D of the December 2003 *Draft Findings* suggest actions that other agencies should take to ensure protection of water quality as follows:

**WQ-8.5 Use PG&E settlement funds for most critical erosion problems:** *Organizations receiving funds from the PG&E settlement should coordinate with agencies and others studying the impacts of erosion and non-point source pollution on coastal resource of the Elkhorn Slough complex including Moss Landing Harbor (e.g., Coastal Commission, State Coastal Conservancy, Elkhorn Slough Foundation and Moss Landing Marine Laboratories). Consultation should occur to identify the priority problem areas (i.e., high erosion or contaminant inputs) and the projects that shall have the greatest effect on protecting these coastal resources.*

**WQ-8.6 Prepare agricultural management plans:** *Agricultural operators should prepare agricultural management plans consistent with the framework established under the comprehensive resources plan (see Recommendation WQ-8.2).*

**WQ-8.7 Expand the Environmental Quality Incentives Program:** *The Natural Resources Conservation Service should continue to fund and staff the EQIP program to the level needed to address non-point source pollution in the North County planning area.*

**WQ-8.8 Evaluate success of permit coordination program:** *In applying for an extension of the Elkhorn Slough Watershed Permit Coordination Project, the Natural Resources Conservation Service and the Resource Conservation District of Monterey County should provide an evaluation of how practices are chosen from the perspective of erosion and runoff prevention and minimization of work in sensitive habitat areas for the authorizing agencies (e.g., the Coastal Commission, Monterey County Planning and Building Inspection Department) to review and to adjust the application for extension accordingly.*

### **Comment: Nitrate Loading**

Although the draft findings and preliminary recommendations include some information regarding the water quality issues of nitrate infiltration due to agricultural practices and septic systems, there are additional issues that need to be reviewed and analyzed to ensure protection of North Monterey County's groundwater.

Existing wells in the North Monterey County are being contaminated by nitrates. As a result, contaminated wells are being abandoned and new wells are being installed deeper into the aquifer. Installation of a new well may not need a discretionary permit. It is unclear whether the deeper wells are capped at a level that would ensure protection from the contamination of the deep aquifer or how long the new wells will be operable due to continued nitrate leaching.

### **Comment #9: Contamination of Deep Aquifer**

The Coastal Commission should review, analyze and make recommendations regarding the installation of deep wells and the potential to contaminate the deep aquifer.

**Response:** Comment noted. This issue was not specifically analyzed as part of this review. At the present time resources are not sufficient to conduct such a review.

**Comment #10: Well Longevity**

The Coastal Commission should review, analyze and make recommendations regarding the issues raised by the potential longevity of new wells prior to nitrate contamination due to continued nitrate loading and the potential impacts to the deep aquifer.

**Response:** Comment noted. This issue was not specifically analyzed as part of this review. At the present time resources are not sufficient to conduct such a review.

**Comment: Non-Point Source Pollution**

FANS supports the Coastal Commission's opinion that the preservation of maritime chaparral habitat and prevention of groundwater depletion will help control non-point source pollution impacting Elkhorn Slough.

**Comment #11 Consistency is Necessary to Protect the Elkhorn Slough**

Although the Coastal Commission opines that recommendations suggested for prevention of groundwater depletion and preservation of maritime chaparral will help protect the Elkhorn Slough from non-point source pollution, it appears these recommendations have not been incorporated into the proposed LCP recommendations. FANS believes that recommended updates to the LCP regarding protections to groundwater, maritime chaparral, and water quality work harmoniously to provide the fullest protections possible to Elkhorn Slough and North Monterey County as a whole. Protection of one resource must not negatively impact another resource. In other words, any LCP amendment that may prevent groundwater depletion, must also protect maritime chaparral and vice versa.

**Response:** It is correct that separate recommendations are proposed for ESHA protection and water quality but the intent is that all applicable recommendations be incorporated into the LCP so that comprehensive protections are provided when taken as a whole. However, as noted in the Response to Comment #8 above, certain actions necessary to provide comprehensive protection are outlined in Appendix D and are the responsibility of agencies other than the County. In these cases recommendations suggest the County should coordinate with other agencies in these efforts.

**Comment #12: Filling of Wetlands Within Elkhorn Slough May be Inconsistent With Protections Against Non-Point Source Pollution.**

FANS opposes the filling of any wetlands or riparian area adjacent to or connecting to Elkhorn Slough or any of its tributaries. Any recommendations allowing the filling of wetlands within or adjacent to Elkhorn Slough for road improvements are inconsistent with the Coastal Act policies requiring the protection of environmentally sensitive habitat areas.

**Response:** Refer to response to Comment #4 above



## **APPENDIX 1:**

### **List of Comment Letters Received Regarding the Monterey County LCP Periodic Review**

<b>DATE</b>	<b>NAME</b>	<b>AGENCY</b>
12/5/03	Janice M. O'Brien	(individual)
12/7/03	David Dilworth, Executive Director	Helping Our Peninsula's Environment (HOPE)
12/09/03	Fernando Armenta, Chair	Monterey County Board of Supervisors
12/8/03	Linda McIntyre, General Manager/ Harbormaster	Moss Landing Harbor District
12/10/03	Lisa Kleissner	Coast Property Owners Association (CPOA)
1/26/04	Dr. Deborah Rogers	Genetic Resources Conservation Program University of California
2/24/04	Kaitlin Gaffney; D'Anne Albers; Jane DeLay; Carol Maehr	The Ocean Conservancy; Friends of the Sea Otter and Ventana Chapter, Sierra Club; Save Our Shores, American Cetacean Society
2/12/04	Linda Smith	Monterey Pine Forest Watch
2/12/04	Mary Akens	Law Office of J. William Yeates for Friends. Artists, and Neighbors of Elkhorn Slough

## CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE

725 FRONT STREET, SUITE 300

SANTA CRUZ, CA 95060

(831) 427-4863



## TH10a

March 17, 2004

TO: COMMISSIONERS AND INTERESTED PERSONS

FROM: Charles Lester, Deputy Director  
Rick Hyman, Deputy Chief Planner, Central Coast District  
Elizabeth Fuchs, AICP, Manager, Statewide Planning  
Kelly Cuffe, Coastal Analyst

SUBJECT: **ADDENDUM: ADDITIONAL COMMENTS ON THE PERIODIC REVIEW OF  
THE MONTEREY COUNTY LOCAL COASTAL PROGRAM**

On February 26, 2004, Coastal Commission staff released a staff report on comments and responses regarding the periodic review of Monterey County's local coastal program (LCP). Attached are recently received additional comments on the periodic review. These comments may be addressed as part of the public hearing.

We would like to clarify the Commission staff's next steps in the periodic review of Monterey County's LCP. The periodic review findings and recommendations released in November/December 2003 are being presented to the Commission on March 18, 2004, and we encourage the public to participate in this hearing. Following the hearing the Commission will be moving into a new phase of implementation of the periodic review recommendations. In general, LCP amendments have been a main mechanism for implementing recommendations from a periodic review. In the case of Monterey County, with the release of its latest draft of the *21st Century General Plan Update*, which contains a complete update/rewrite of the County's coastal land use plans, we are presented with a unique opportunity. In light of extreme budget constraints on both the Commission and the County at this time, Coastal Commission staff concluded it would be more efficient to integrate the relevant periodic review recommendations into the review of the Monterey County *21st Century General Plan Update* rather than expend more time in final report writing and adoption of the periodic review findings, as required by Coastal Act Section 30519.5. That said, while no formal adoption of recommendations for transmittal to the County is planned at this time, it is important to receive public feedback on the draft report and recommendations because the periodic review recommendations will be a basis of the Commission's input to the *21st Century General Plan Update* and any other County LCP amendments submitted to the Commission. Commission staff will continue to try to achieve implementation of the relevant recommendations as part of the *General Plan* document. As noted in our February 26, 2004 staff report,



California Coastal Commission  
March 18, 2004 Meeting in Monterey

Staff: R. Hyman    Approved:

the Commission may in the future still adopt and transmit final periodic review findings and recommendations to the County, thereby initiating the one year time period that the County has to respond to the Commission's transmitted recommendations pursuant to the Coastal Act. However, to the extent that the County's *21st Century General Plan Update* or other LCP amendments can effectively address the concerns identified in the periodic review, such future action may not be needed.

The County has scheduled three public information meetings for our staff to discuss the periodic review. The first such meeting was held in Moss Landing on March 12, 2004 for North County citizens and notes from that meeting are attached. Commission staff encourages participation in the two additional meetings scheduled at the end of the month:

- Monday March 29, 2004 5:00 p.m. -7:00 p.m. Crossroads Conference Center, Rio Rd, Carmel
- Tuesday March 30, 2004 5:00 p.m. -7:00 p.m. Big Sur Multi-Agency Facility, Highway One

Additional public comments received after the hearing, including comments from these meetings, and, provided resources allow, any further responses to comments will be transmitted to the Commission in the future. Staff would appreciate receiving copies of any further public comments on the periodic review by the end of March 2004.

All additional comment letters received to date are attached.



## **Additional Comment Letters Received Regarding the Monterey County LCP Periodic Review**

<b>DATE</b>	<b>NAME</b>	<b>AGENCY</b>
12/9/03	Richard Krumholz	California Department of Transportation
2/16/04	Mary Ann Matthews	Monterey Bay Chapter, California Native Plant Society
2/22/04		Coast Property Owners Association
2/23/04	Holly Price	Monterey Bay National Marine Sanctuary
3/1/04	Bill Cormeny	individual
3/3/04	Darby Fuerst	Monterey Peninsula Water Management District
3/8/04	116 petition signers	individuals
3/11/04	Several individuals	North Monterey County Town Hall meeting
3/12/04	R. Gregg Albright	California Department of Transportation
3/15/04	Mark Silberstein	Elkhorn Slough Foundation
3/15/04	Brian Finegan	representing Armstrong family

